

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DALE FREEMAN,

Plaintiff,

v.

SCOTT L. HOLMES, et al.,

Defendants.

Case No. 1:19-cv-728

HON. JANET T. NEFF

ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. Defendants Scott Holmes, M.D., and Kyle Sperling, P.A. (the Corizon Defendants) filed a Motion for summary judgment based on failure to exhaust (ECF No. 12). Defendants Quarter Master David Kimmel, Nurse Kimberly Silvernail, and Nurse Manager Kelly Stevens (the MDOC Defendants) filed a Motion for summary judgment based on failure to exhaust and motion to dismiss based on Eleventh Amendment immunity (ECF No. 19). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation on June 24, 2020, recommending that this Court deny the Corizon Defendants' motion, and grant in part and deny in part the MDOC Defendants' motions. The Report and Recommendation was duly served on the parties. No objections have been filed. *See* 28 U.S.C. § 636(b)(1). Accordingly:

IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 27) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Corizon Defendants' Motion for summary judgment based on failure to exhaust (ECF No. 12) is DENIED.

IT IS FURTHER ORDERED that the MDOC Defendants' Motion for summary judgment based on failure to exhaust and motion to dismiss based on Eleventh Amendment immunity (ECF No. 19) is GRANTED IN PART AND DENIED IN PART; Plaintiff's claims against Defendants Silvernail and Stevens are dismissed without prejudice for failure to exhaust, and the official-capacity claims against Silvernail, Stevens, and Kimmell are dismissed with prejudice.

Dated: July 21, 2020

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge